

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 DALE MITCHELL,

10 Petitioner,

11 v.

12 RON VAN BOENING,

13 Respondent.

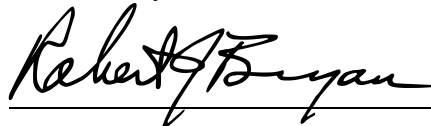
CASE NO. C09-5460RJB/JRC

ORDER ADOPTING
REPORT AND
RECOMMENDATION

14 The Court having reviewed the Report and Recommendation of the United States
15 Magistrate Judge J. Richard Creatura, objections to the Report and Recommendation, if any, and
16 the remaining record, does hereby find and Order:

- 17 (1) The Court **ADOPTS** the Report and Recommendation (Dkt. 13);
18 (2) The petition is **DISMISSED WITHOUT PREJUDICE** as unexhausted.
19 (3) In accordance with Rule 11 of the Rules Governing Section 2254 Cases in
20 the United States District Courts, a certificate of appealability is **DENIED**
21 with respect to all claims asserted by petitioner in his habeas petition.
22 (4) The clerk is directed to send copies of this Order to Petitioner, and the
23 Hon. J. Richard Creatura.

24 DATED this 22nd day of February, 2010.

25 

26 ROBERT J. BRYAN
United States District Judge